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TR 83-2211

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Unauthorized Disclosures of Classified Information [redacted] 25X1

FROM [redacted] 25X1

Director, Intelligence Community Staff

EXTENSION

NO. ICS-0802-83

DATE 23 May 1983

TO: (Officer designation, room number, and building)	DATE RECEIVED	DATE FORWARDED	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
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Director
Intelligence Community Staff
Washington, D.C. 20505

ICS-0802-83

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence

FROM: [redacted] 25X1

Director, Intelligence Community Staff 25X1

SUBJECT: Unauthorized Disclosures of Classified Information [redacted]

1. Senior members of the Intelligence Community Staff have met to consider responses to your call for proposals to counter the unauthorized disclosures of classified intelligence which are increasing in number and severity. The recommendations of the group are in five basic categories -- education, legislation, investigations, media interface and information control. This memorandum discusses proposals in each of these categories.

2. Education - There appears to be a lack of appreciation of the consequences of the unauthorized revelation of classified intelligence information, both to the national security and to the individual making the disclosure. Each recipient of Sensitive Compartmented Information (SCI) is indoctrinated on the potential damage to the national security of such revelations, as well as the penalties prescribed in Title 18, Sections 793 through 798. Nevertheless, incidents continue which indicate that these elements of risk are not being taken seriously. Recipients of classified intelligence must be convinced that its unlawful revelation is reprehensible, and that individuals who take it upon themselves to decide when the system may be ignored place the national security and themselves in jeopardy.

3. In wartime, the population recognizes the need to keep military secrets. The concept that "loose lips sink ships" is well accepted. We need a campaign, beginning with the President, to convince all concerned that classified information must be protected if we are to avoid national disaster. A vigorous Presidential charge to the Cabinet and the Executive Office of the President, relayed through channels to all levels, is an essential element of this campaign.

4. Awareness of the importance of security to intelligence must be extended to the Congress. The whole-hearted cooperation of both legislators and staff members is indispensable. Not only is Legislative Branch support needed to safeguard the material provided to the Congress, but also to put teeth into the anti-leak effort.

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5. To make this effort credible, documents must be classified properly and concern about disclosures should be limited to those affecting national security.

6. A one-time effort to sensitize the government and the public to the disastrous consequences of illegal disclosures, even one kicked off by the President, has a limited half-life. There must be a planned follow-up. In addition to the obvious reindoctrination efforts, consideration should be given to an ongoing program of damage-oriented "lessons learned" presentations. These are envisioned as timely, specific, succinct and technically competent videotape shows detailing the nature of the unauthorized disclosure and the specific losses suffered as a result. They would be shown to audiences cleared for the compromised information as a means of reinforcing the need for strong security.

7. Because of the general derision with which the media regard government efforts to stop leaks and because the generic term "leak" is associated with disclosures that are politically embarrassing, It may be advisable to avoid that term and speak only of "unauthorized disclosures of classified information."

8. Legislation - The existing espionage laws were drafted to protect U.S. secrets from foreign agents. They did not contemplate the hemorrhaging of classified data that has followed the media explosion. The divulgence of classified information to the Russians by way of Jack Anderson's column, for example, is a relatively new phenomenon. Even though the intentions of the leaker may be to nobly inform the public of facts he thinks should be known, the results are the same as directly transmitting the information to the KGB.

9. Attached is a copy of the proposed bill to prohibit certain unauthorized disclosures of classified information. Formulated on the basis of the Willard Report, it is an excellent vehicle for closing the loophole that allows individuals to ignore classifications and make their own decisions about what must or must not be kept secret. Passage of such a bill would make it clear that both the legislative and executive branches are serious about preserving our ability to keep our national security secrets. It would then remain for the judiciary to show the same resolve.

10. The chances of passing the unauthorized disclosures bill are directly related to the Congress's perception of how responsibly the Executive Branch uses its classification powers. As noted above, the effort to educate government employees (and the public, to the extent possible) on the need for effective secrecy must also include the Congress and legislative staff personnel. The means of reaching this objective are the same for both branches of government -- graphic demonstrations that unauthorized disclosures are costly in terms of money, national defense, intelligence capabilities, and sometimes, human lives.

11. Legislation also is needed to make the unauthorized possession of classified material a crime. It is illogical for the U.S. Government to be

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unable to bring charges against, or at least sue to recover classified material from, Jack Anderson, who makes a mockery of classification, or from Aviation Week and Space Technology, which has printed classified satellite imagery. If the U.S. would take action against an ordinary citizen, it should act with the same vigor against journalists who damage the national security. The Attorney General and the General Counsels of the Intelligence Community should begin a crash program to draft a legislative proposal and to review the possibilities of action even without a new law.

12. Whether or not the effort to pass new legislation is successful, it is vital that Congress be included in any awareness-raising program. A secondary objective would be to raise the security standards of the congressional staffs. Many staffers have access to more sensitive information than some CIA or NSA personnel, who are polygraphed as well as backgrounded, and are subject to periodic reprocessing. Congressional staffers are not steeped in the discipline of security as are the intelligence professionals, and would almost certainly benefit from a greater appreciation for the need for secrecy.

13. Finally, the problem of reinforcing the responsibilities of formerly cleared recipients of classified information to continue to maintain secrecy requires attention. A periodic reminder by mail might be considered, but except for CIA and NSA, it could be difficult to identify those who should receive them. In the future, the archival file of the Community-wide, Computer-assisted Compartmented Control (4C) System, which will contain the identities of individuals formerly approved for access to SCI, should assist with this problem. Meanwhile, the message needs to be spread that our "old boys" can do a lot of harm by talking too much. Cleared persons still employed in government must be reminded frequently and forcefully that those who have retired, or taken jobs in the industrial sector, may not legally receive classified information unless they are specifically cleared for it.

14. Investigations - The investigation of unauthorized disclosures has rarely proven successful over the years. The broad dissemination required of intelligence reporting, the lack of an effectual investigative program throughout the government, an apparent tolerant attitude toward those who make illicit disclosures, and the absence of a legislative basis for action have made for a highly frustrating situation. NSDD-84 offers hope for greater success in the future, but there is much to be done.

15. Although leak investigations are searches for needles in haystacks, occasionally good investigative work will produce results. Unfortunately, unauthorized disclosures to the media are consensual acts between two parties, neither of whom is likely to admit participation, and one of whom enjoys a special degree of privilege under the First Amendment. Legislation will help, but there can't be a trial until a defendant is identified. The abysmal track record of leak investigations to date dictates that the Federal Bureau of Investigation is the only agency with any chance of success. Fragmented, single-agency efforts simply do not work. Nor does the proposal to form interagency units to investigate unauthorized disclosures offer any reasonable hope for improvement.

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16. Even the FBI will require some help -- the full cooperation of other agencies, the legislation discussed earlier, and guidelines that permit the use of as full a range of investigative tools as possible. The Attorney General and the Director of the FBI should be instructed by the President to provide the most permissive guidelines possible, consistent with the protection of civil liberties, for FBI investigations of unauthorized disclosures of classified information. In addition, appropriate manpower allocations to the FBI should be made to ensure a vigorous effort to solve unauthorized disclosures. Without this, the Bureau cannot be expected to neglect other important investigations to undertake tasks that offer a low probability of success and almost certain criticism in the press.

17. Because of the nature of unauthorized disclosures, the likelihood of developing conclusive evidence is low. In fact, the investigative tool most likely to succeed is the polygraph, if conventional investigation can narrow the number of suspects sufficiently to employ it. If a suspect confesses as a result of polygraph interview the case is solved. If, however, in the face of clear-cut polygraphic evidence of deception he continues to deny culpability, the problem of acceptability of polygraph evidenee arises.

18. While prosecution on the basis of polygraph charts is extremely unlikely to succeed, the government could revoke the individual's clearances or access approvals on that basis. This would effectively neutralize future disclosures by that individual, but could result in a lawsuit to regain the approvals. The Justice Department and Intelligence Community legal counsels should be tasked to research the grounds upon which such a suit could be defended and the likelihood of success.

19. Action based primarily upon polygraph results is certain to bring strong media criticism. The polygraph process is little understood and the press has fostered this misunderstanding by pressing the theme that the instrument itself is unreliable. Consideration should be given to preparing an educational program to be used first with senior officials of the Executive Branch and with legislators. It should demonstrate that the effectiveness of the process doesn't depend totally upon the machine, but is a technique to aid a skilled interrogator. If a convincing effort can be mounted, it could be brought to the public and even to the news media. If the Intelligence Community can't provide objective, rational evidence that the polygraph process is reliable, the entire effort to combat unauthorized disclosures ma be in serious trouble. 25X1

20. Press Interface - NSDD-84 mandates policies to govern contacts between media representatives and agency personnel, leaving implementation t the individual agencies. The effort to eradicate unauthorized disclosures would be assisted greatly by the adoption of uniform rules for all agencies.

21. The discussion of government information, especially sensitive intelligence, by a government employee is not a private, personal matter. There seems no reason why the government cannot require the reporting of all contacts with the news media, during or outside of duty hours, in which

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government business is discussed. Failure to follow such a rule could be made subject to administrative sanctions of varying severity. Data on such contacts could be computerized, by names of government employees, names of media representatives, subjects of discussions and dates of contacts, providing a means of determining a great deal of information that could take inordinate amounts of investigative effort. It wouldn't tell who made unauthorized disclosures, but it would provide a means of determining who might have had the means and the opportunity, and possibly even the motive to have done so.

22. It would be ideal, from the standpoint of security, to abolish backgrounders. Recognizing that this isn't going to happen, there should be firm control of background briefings to the press. There must be clear-cut guidelines on who may authorize and present backgrounders. Every such briefing should be attended by a security or public affairs officer who knows what is sensitive about the topic being discussed and is capable of offering guidance to the briefer. A record should be kept of briefings by names of participants and authorizing officials, dates and topics, preferably in a computerized mode. Presenters of background briefings should be required to prepare summaries of what was presented. These should be cross-referenced to the automated index of background briefings. The documentation of this information and its retrievability will not only serve as an invaluable investigative resource, but its existence will promote prudence in the presentation of backgrounders and in other dealings with the press.

23. Even if all these proposals were adopted, there would be individuals who would continue to divulge classified information to the press. But they would find themselves operating at considerably greater risk. Simple failure to comply with the reporting requirements would be cause for administrative sanctions, and it would become easier to detect such failures by having a reliable record of compliance. It is likely that associations between government personnel and media representatives are known to at least some associates of both, and the possibility of being reported by a concerned colleague would be enhanced by the revised rules. An effective education program about leaks should have the salutary effect of highlighting to their associates those who may deal with the media without observing the reporting requirements. If those who comply are sufficiently convinced of the need for regulation of press contacts, they may be inclined to "blow the whistle." It would then be necessary for the government to demonstrate the seriousness of its intent by taking administrative action against the nonreporting individuals, regardless of their positions.

24. The matter of "authorized" or "official" leaks needs close attention. If the appropriate official determines it is in the national interest to release for publication information that was classified until that point, there should be a means of recording that fact. Such a record would appropriately be kept somewhere in the Executive Office of the President. This record could provide a means of avoiding the expenditure of resources to investigate such disclosures as "leaks."

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25. Finally, the revolving door practice of appointing national media personalities as top level government press officers should be carefully reexamined. Such appointments must face the incumbents with conflicts of interest and severely ambivalent feelings, both during and after their federal service. It may be unrealistic to expect them to deny their colleagues information which they feel is unjustifiably classified and to expect them to forget, and never use, information they received officially.

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26. Information Control - Some people believe there are enough information control policies, procedures and regulations on the books to bring the government to a complete halt if they were strictly applied. While this view may have some merit, it should not serve as an excuse for not trying to secure our sensitive information. The concept that security is everybody's business must not be given lip service and then cast aside.

27. Except for the need for developing a strong, national information control program for the emerging electronic information systems, it is unlikely that more document control regulations are needed or practicable. What is needed is for everyone to be educated in the existing policies and procedures and to make a renewed effort to comply. While everyone claims to know the regulations, it is likely that few could pass a comprehensive test on information security and control.

28. Steps to improve information control would include detailed comparison of practices with policies; the reeducation of all personnel in information security, and a motivational program to enhance awareness of the consequences of improper handling of sensitive intelligence. Better information control is needed, but it must come from motivated people. More regulations are not the answer.

29. Summary - Unauthorized public disclosures of classified information in the news media are damaging to the national security. Our defense against them must come from within, from those who are cleared for access to, and who have signed agreements to protect, classified information. It is clear that some of these people, for reasons of their own, have not kept their word. It also appears that neither the overall level of concern about this situation nor the government's capability for remedial action is up to the job.

30. To encourage wholehearted support of our efforts to protect classified information, we must convince those who have agreed to keep the secrets that they have a moral and legal obligation to keep that convenant. The rules on SCI are simple and clear. It is inconceivable that anyone who gives such information to uncleared individuals is unaware of what he is doing. Therefore, such persons must be unconvinced of the seriousness of the security program.

31. A massive reeducation program for all legitimate recipients of classified information is the first step in attempting to achieve the necessary change in attitude.

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32. A policy and resource commitment to the solution of at least the most flagrant cases of unauthorized disclosure is also needed. This means the devotion of sufficient FBI assets to investigations and an all-out effort to obtain passage of unauthorized disclosure laws.

33. A severe tightening of policies concerning relationships of cleared individuals with media representatives is essential. To be meaningful, this must include strict guidelines, reporting procedures, information retrieval capabilities, and impartial administrative penalities for noncompliance.

34. Renewed awareness of information control policies and procedures and their importance to the national security is needed. If classified documents can be turned over to the media or other unauthorized persons without being noticed, the system isn't working. It must be made clear that "the system" really is the people who operate it.

35. If you wish elaboration or action on any of the above items, appropriate elements of the Intelligence Community Staff are prepared to assist in any way possible.

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Attachment:
Draft unauthorized disclosures bill

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